

**DEPARTMENT OF CONSUMER AFFAIRS
ACUPUNCTURE BOARD**

INITIAL STATEMENT OF REASONS

Hearing Date: February 23, 2007

Subject Matter of Proposed Regulations: Continuing Education

In a September 2004 study, the Little Hoover Commission stated that the steadily increasing educational requirements for new entrants into the acupuncture profession potentially creates different levels of competency, and could confuse or mislead the public regarding the knowledge, skills and ability of those previously licensed. Therefore, they recommended the law be changed to specify courses to keep practitioners current on certain conditions and procedures (for purposes of patient safety).

Business and Professions Code Section 4934.2(b) specifically requires the board to study and recommend ways to improve the quality and relevance of their continuing education courses. As a result, the board conducted extensive licensee surveys and held four focus group panel meetings to thoroughly evaluate the continuing education process. Panel discussions and evaluations were thorough, focused and productive. These proposed amendments are a direct result of those panel meetings.

Additionally, Business and Professions Code Section 4945(b) was amended by Assembly Bill 1114 (Yee, Chapter 648, Statutes of 2005), and established that acupuncturists complete 50 hours of continuing education every two years as a condition of renewal and that only five hours of CE in each two year period may be spent on issues unrelated to clinical matters or the actual provision of health care to patients. As a result, these proposed amendments would categorize permissible continuing education courses.

Sections Affected: 1399.480, 1399.481, 1399.482, 1399.483, 1399.484, 1399.485, 1399.486, 1399.487, 1399.488, 1399.489 and 1399.489.1

Amend Section 1399.480

Problem Addressed

Minor clean up only.

Specific Purpose

The board proposes to amend Section 1399.480 to make minor clean up to existing language.

Factual Basis/Rationale

N/A

Underlying Data

N/A

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the fact that the changes to this regulation are technical in nature and do not make any substantive changes.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Amend Section 1399.481(a) and repeal subsection (c)**Problem Addressed**

Current regulations specify that a person or organization wishing to be a provider of continuing education submit to the board, a provider application on a form provided by the board. However, there is no reference as to the title or current revision date of the form to be used.

Specific Purpose

The board proposes to amend this section to add as a reference, the title and revision date of the form to be used for consideration as an approved provider of continuing education. Additionally, subsection (a) is being amended to reflect that approved schools must meet the same requirements as any other continuing education applicant.

By making this modification, subsection (c) is no longer necessary and can be deleted.

Factual Basis/Rationale

Technical changes only.

Underlying Data

N/A

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the fact that the changes to this regulation are technical in nature and do not make any substantive changes.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Amend Section 1399.482**Problem Addressed**

In addition to minor clean up changes, this section needs language regarding the changes to or cancellation of continuing education courses moved to a more appropriate section of the regulations. Also, current regulations require providers of continuing education to submit to the board certain records, including attendance records and evaluation forms. This creates for a lot of paperwork retention in the board office and staff time for filing and maintaining these records.

Specific Purpose

The board proposes to amend Section 1399.482 to make minor clean up to existing language and remove language that would more appropriately be referenced in Section 1399.484. Additionally language is being modified in regards to the submission of attendance and evaluation forms being submitted to the board.

Factual Basis/Rationale

Existing language under 1399.482 outlines the process that providers must follow when changing or canceling continuing education courses. Because this section deals more with the approval of continuing education providers, the board feels that the subject of changing or canceling courses would be more appropriately referenced in Section 1399.484, which outlines the process for the approval of continuing education courses. Current regulations require providers of continuing education to submit to the board certain records, including attendance records and evaluation forms, for a period of four years, and are required to submit the attendance records and participant evaluation forms to the board upon the conclusion of course offerings. It has determined that since the provider must maintain these records, it not necessary for them to automatically submit them to the board. Language is being proposed that would require providers to submit said records only upon request by the board.

Underlying Data

N/A

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the fact that the changes to this regulation are technical

in nature and do not make any substantive changes.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Amend Section 1399.483

Problem Addressed

Existing language needs to be modified to better clarify the types of continuing education that licensees can take as a condition of renewal. Additionally, there has been some issues regarding the selling/promoting of name-brand products during continuing education courses.

Specific Purpose

The board proposes to amend Section 1399.483 to classify courses submitted for approval into two categories as required by AB 1114. Additionally, language is being proposed that would prohibit practical or hands-on techniques for independent or home study courses and require that courses approved for independent or home study include a self-assessment for the licensee to complete. Language is also being proposed that would prohibit providers from selling or discussing name-brand products during a course.

Factual Basis/Rationale

The basis for the amendments to this section is a direct result of the September 2004 Little Hoover Commission study, the directive in Business and Professions Code Section 4934.2(b), and AB 1114 (Statutes of 2005).

Underlying Data

May 2003 Licensee CE Survey; August 2002 CE Focus Group Report; April 2004 CE Review Panel Decisions; May 2004 CE Review Panel Decisions; June 2004 CE Subcommittee Report; July 2004 Distance Education Workshop Decision.

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the fact that the changes to this regulation are technical in nature and do not make any substantive changes.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Amend Section 1399.484**Problem Addressed**

Existing language needs to be modified to clarify requirements for continuing education course approval, including adding a reference to a course request form provided by the board and the information required on this form. Additionally, language regarding changes to or the cancellation of CE courses needs to be moved from section 1399.482 to 1399.484, which is a more appropriate section.

Specific Purpose

The board proposes to amend Section 1399.484 to make minor clean-up to existing language, including adding a reference to the title of the form that is available from the board for the request of course approval; identifying the information called for on said form; and adding/modifying language from 1399.482 which is more appropriate for this section regarding changes to or the cancellation of approved courses.

Factual Basis/Rationale

Technical and clean up only.

Underlying Data

N/A

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the fact that the changes to this regulation are technical in nature and do not make any substantive changes.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Amend Section 1399.485

Problem Addressed

Existing regulatory language specifies that an instructor of continuing education be free of any disciplinary order or probation imposed by the board, and what subject matter experience is required before being approved to teach continuing education. Language is needed to further clarify this requirement.

Specific Purpose

The Board proposes to amend Section 1399.485 to be more specific as to the type of discipline an instructor must be free of and make more specific the amount of experience an instructor must have.

Factual Basis/Rationale

Business and Professions Code Section 4934.2(b) specifically required the board to study and recommend ways to improve the quality and relevance of their CE courses. As a result, the board conducted extensive licensee surveys and held four focus group panel meetings to thoroughly evaluate the continuing education process. Panel discussions and evaluations were thorough, focused and productive. These proposed amendments are a direct result of the survey and panel meetings.

Underlying Data

May 2003 Licensee CE Survey; August 2002 CE Focus Group Report; April 2004 CE Review Panel Decisions; May 2004 CE Review Panel Decisions; June 2004 CE Subcommittee Report; and, July 2004 Distance Education Workshop Decision.

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the fact that the changes to this regulation are technical in nature and do not make any substantive changes.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Amend Section 1399.486

Problem Addressed

Existing regulatory language regarding advertising of continuing education courses does not restrict providers from marketing products in conjunction with courses being offered.

Also, if section 1399.483 is amended regarding the implementation of two categories of continuing education, then this information will need to be required on advertisements.

Specific Purpose

The board proposes to amend Section 1399.486 to impose stricter guidelines in advertising by requiring that course titles reflect course content without market language, state which category of CE their courses falls under (per proposed new language in Section 1399.483), and state a full disclosure of all products that will be for sale after completion of a course.

Factual Basis/Rationale

Business and Professions Code Section 4934.2(b) specifically required the board to study and recommend ways to improve the quality and relevance of their CE courses. As a result, the board conducted extensive licensee surveys and held four focus group panel meetings to thoroughly evaluate the continuing education process. Panel discussions and evaluations were thorough, focused and productive. These proposed amendments are a direct result of the survey and panel meetings.

Underlying Data

May 2003 Licensee CE Survey; August 2002 CE Focus Group Report; April 2004 CE Review Panel Decisions; May 2004 CE Review Panel Decisions; June 2004 CE Subcommittee Report; and, July 2004 Distance Education Workshop Decision.

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the fact that the changes to this regulation are technical in nature and do not make any substantive changes.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Amend Section 1399.487

Problem Addressed

Existing language regarding the denial/withdrawal/appeal of approval of a provider of continuing education lacks clarification in the area of reasons for denial. Furthermore, the regulation fails to address what misconduct by providers constitutes cause to deny or withdraw approval.

Specific Purpose

The board proposes to amend Section 1399.487 to make minor clean up to existing language so it flows better, is more understandable, expands the reasons for denial or withdrawal of approval of a provider, and holds acupuncturist and non-acupuncturist providers to the same standard.

Factual Basis/Rationale

Clean up and clarification only.

Underlying Data

N/A

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the fact that the changes to this regulation are technical in nature and do not make any substantive changes.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Amend Section 1399.488**Problem Addressed**

Existing language regarding processing times for the approval of continuing education providers and course is still tied into the Permit Reform Act, which has been repealed.

Specific Purpose

The board proposes to amend Section 1399.488 to delete the requirements of the Permit Reform Act, which has been repealed. The permit reform act required that there be minimum, median, and maximum processing times. The modified language will establish a maximum 30-day time frame for the board to approve continuing education providers and/or courses.

Factual Basis/Rationale

The Permit Reform Act (Government Code section 15376) was repealed by AB 1757, Chapter 229, Statutes of 2003.

Underlying Data

N/A

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the fact that the changes to this regulation are technical in nature and do not make any substantive changes.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Amend Section 1399.489**Problem Addressed**

In 2005 legislation was enacted that increased the number of continuing education hours from 30 to 50 that an acupuncturist must complete every two years as a condition of renewal. Existing regulatory language needs to be amended to reflect this change, as well as establish a pro-rata breakdown of required hours for a licensee who renews a license which has been issued for less than two years. Existing regulatory language also needs to be modified to specify how many hours can be completed in the proposed two categories; establish a cap on how much continuing education credit can be earned in independent or home study courses; and establish how much continuing education credit an acupuncturist can receive for participating in the development of the occupational analysis or the development, review, or scoring of the acupuncture examination.

Specific Purpose

The board proposes to amend Section 1399.489 to require that acupuncturist complete 50 hours of approved continuing education as a condition of renewal and that no more than five hours of continuing education in each two-year period may be spent on issues unrelated to clinical matters or the actual provision of health care to patients. The proposed regulations also modify the pro-rata number of hours an initial licensee must complete if their license has been issued for less than two years. These regulations are also proposing that a limited number of continuing education be granted to licensees that participate in the development of the occupational analysis or the development, review, or scoring of the acupuncture examination.

Factual Basis/Rationale

Business and Professions Code Section 4945(b) was amended by Assembly Bill 1114 (Yee, Chapter 648, Statutes of 2005), and established that acupuncturists complete 50 hours of continuing education every two years as a condition a renewal.

Underlying Data

N/A

Business Impact

This regulation will not have a significant adverse economic impact on businesses. However, there could be concern amongst licensees that the increase in continuing education hours could impact their business since they must pay for the additional hours and take more time away from their practice and revenue earning.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Amend Section 1399.489.1**Problem Addressed**

In 2005 legislation was enacted that increased the number of continuing education hours from 30 to 50 that an acupuncturist must complete every two years as a condition of renewal and also limited the hours that can be completed in specific continuing education coursework. Existing regulatory language needs to be amended to reflect this change for inactive licensees.

Specific Purpose

The board proposes to amend Section 1399.489.1 to require licensees as a condition to restoring their license from an inactive to active status, to complete 50 hours of continuing education and to limit the hours that can be completed in issues unrelated to clinical matters or the actual provision of health care to patients.

Factual Basis/Rationale

Business and Professions Code Section 4945(b) was amended by Assembly Bill 1114 (Yee, Chapter 648, Statutes of 2005), and established that acupuncturists complete 50 hours of continuing education every two years as a condition a renewal.

Underlying Data

N/A

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the fact that the changes to this regulation are technical in nature and do not make any substantive changes.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.